MONTANA LEGISLATIVE HISTORY

Chapter 178 19 83

Bill H _____ S 62 Original bill & history ✓ C

H. Committee on Business		S. Committee on Business	
Hearing Date(s) 3-2	✓ C	Hearing Date(s) 1-14	✓ C
_____	___ C	1-19	✓ C
_____	___ C	1-28	✓ C
_____	___ C	1-31	✓ C
Date Out 3-2	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 1/5/83
HEARING: 1/12/83
REPORT: 01/17/83, DO NOT PASS. REPORT ADOPTED.
BILL KILLED.

SB 60 -- CONOVER -- TO PROVIDE THAT THE RESIDENT AND NONRESIDENT AGRICULTURAL HARVESTING EQUIPMENT FEES AND PERMITS ARE VALID FOR THE FULL CALENDAR YEAR IN WHICH ISSUED.

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 1/5/83
HEARING: 1/10/83
REPORT: 01/18/83, DO PASS, AS AMENDED
2ND READING: 01/20/83 AYES: 47; NAYS: 0
3RD READING: 01/22/83 AYES: 45; NAYS: 0

TRANSMITTED TO HOUSE: 1/22/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/24/83
HEARING: 1/31/83
REPORT: 02/04/83, BE CONCURRED IN
2ND READING: 02/28/83, BE CONCURRED IN AYES: 94; NAYS: 0
3RD READING: 03/01/83, BE CONCURRED IN AYES: 98; NAYS: 0

RETURNED TO SENATE: 3/1/83

TRANSMITTED TO GOVERNOR: 03/07/83
SIGNED: 03/10/83, CHAPTER 48

SB 61 -- NORMAN -- REFINING THE DEFINITION OF DEATH ....

INTRODUCED: 01/05/83
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 1/5/83
HEARING: 01/17/83
REPORT: 01/20/83, DO PASS
2ND READING: 01/22/83 AYES: 45; NAYS: 0
3RD READING: 01/25/83 AYES: 50; NAYS: 0

TRANSMITTED TO HOUSE: 1/25/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 01/26/83
HEARING: 3/4/83
REPORT: 03/05/83, BE CONCURRED IN
2ND READING: 03/07/83, BE CONCURRED IN AYES: 86; NAYS: 0
3RD READING: 03/08/83, BE CONCURRED IN AYES: 98; NAYS: 0

RETURNED TO SENATE: 3/8/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 03/17/83, CHAPTER 86

SB 62 -- TURNAGE, TOWE -- RELATING TO THE LICENSING CRITERIA LIMITING OWNERSHIP OF MONTANA RETAIL ALCOHOLIC BEVERAGES LICENSES ....
BY REQUEST OF: THE REVENUE OVERSIGHT COMMITTEE

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/06/83
HEARING: 1/14/83

REPORT: 01/19/83, DO PASS, AS AMENDED
ON MOTION, 1/21/83, PASS CONSIDERATION.
REREFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/21/83
REPORT: 02/01/83, DO PASS, AS AMENDED
2ND READING: 02/03/83 AYES: 44; NAYS: 6
3RD READING: 02/05/83 AYES: 45; NAYS: 0

TRANSMITTED TO HOUSE: 2/5/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/07/83
HEARING: 3/2/83
REPORT: 03/02/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/04/83, BE CONCURRED IN AYES: 92; NAYS: 0
3RD READING: 03/07/83, BE CONCURRED IN AYES: 96; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/8/83
2ND READING: 03/09/83 AYES: 50; NAYS: 0
3RD READING: 03/10/83 AYES: 48; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/18/83
SIGNED: 3/22/83, CHAPTER 178

SB 63 -- TURNAGE -- DEFINING THE DUTIES OF A VOLUNTEER FIREFIGHTER FOR THE PURPOSE OF DISABILITY PAYMENTS ....

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/06/83
HEARING: 01/11/83
REPORT: 01/15/83, DO PASS, AS AMENDED
2ND READING: 01/18/83 AYES: 49; NAYS: 0
3RD READING: 01/20/83 AYES: 47; NAYS: 0

TRANSMITTED TO HOUSE: 1/20/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/21/83
HEARING: 2/5/83
REPORT: 02/07/83, BE CONCURRED IN
2ND READING: 02/28/83, BE CONCURRED IN AYES: 93; NAYS: 1
3RD READING: 03/01/83, BE CONCURRED IN AYES: 97; NAYS: 0

RETURNED TO SENATE: 3/1/83

TRANSMITTED TO GOVERNOR: 03/07/83
SIGNED: 03/10/83, CHAPTER 49

SB 64 -- TURNAGE -- TO SUBJECT THE HOMESTEAD ALLOWANCE, THE EXEMPT PROPERTY ALLOWANCE, AND THE FAMILY ALLOWANCE TO SECURED CLAIMS AND TO FUNERAL AND ADMINISTRATION EXPENSES FOR PURPOSES OF ESTATE ADMINISTRATION ....

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/06/83
HEARING: 1/11/83
REPORT: 01/14/83, DO NOT PASS. REPORT ADOPTED.
BILL KILLED.

SB 65 -- HALLIGAN -- TO INCREASE THE TIME FOR WHICH SENTENCE FOR ANY OFFENSE MAY BE DEFERRED OR SUSPENDED IF RESTITUTION IS IMPOSED ....

INTRODUCED: 01/06/83

SENATE BILL NO. 62

INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 6, 1983	Introduced and referred to Committee on Business and Industry.
January 19, 1983	Committee recommend bill do pass as amended. Report adopted.
January 20, 1983	Bill printed and placed on members' desks.
January 21, 1983	Second reading, pass consideration.
	Rereferred to Committee on Business and Industry.
February 1, 1983	Committee recommend bill do pass as amended. Report adopted.
February 2, 1983	Bill printed and placed on members' desks.
February 3, 1983	Second reading, do pass.
February 4, 1983	Correctly engrossed.
February 5, 1983	Third reading, passed. Ayes, 45; Noes, 0. Transmitted to House.

IN THE HOUSE

February 7, 1983	Introduced and referred to Committee on Business and Industry.

March 2, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 4, 1983	Second reading, concurred in.
March 7, 1983	Third reading, concurred in.

IN THE SENATE

March 8, 1983	Returned to Senate with amendments.
March 9, 1983	Second reading, amendments concurred in.
March 10, 1983	Third reading, amendments concurred in. Ayes, 48; Noes, 0. Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 62

INTRODUCED BY Turnage

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE LICENSING CRITERIA LIMITING OWNERSHIP OF MONTANA RETAIL ALCOHOLIC BEVERAGES LICENSES; AMENDING SECTION 16-4-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (5), in the case of a license that permits on-premises consumption, the department must find in every case ~~where~~ in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) ~~neither~~ the applicant ~~nor any member of his immediate family has~~ does not possess an ownership interest in any other establishment licensed under this chapter for all-beverages sales;

(ii) the applicant ~~or any member of his immediate family~~ is without financing from or any affiliation to a manufacturer, bottler, or distributor of beer, wine, or liquor;

(iii) the applicant is a resident of the state and is qualified to vote in a state election;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a) of this section;

(iii) the corporation is authorized to do business in Montana; and

(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i).

(3) In the case of a license that permits only

INTRODUCED BILL

SB 62

off-premises consumption ~~or that is for the manufacture or wholesaling of an alcoholic beverage~~, the department must find in every case ~~where~~ in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) ~~neither~~ the applicant ~~nor any member of his immediate family has~~ does not possess an ownership interest in any other establishment licensed under this chapter for all-beverages sales;

(ii) the applicant ~~or any member of his immediate family~~ is without financing from or any affiliation to a manufacturer, bottler, or distributor of beer, wine, or liquor;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a) of this section; and

(iii) the corporation is authorized to do business in Montana.

(4) In the case of a license that permits the manufacture or wholesaling of an alcoholic beverage, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant has no financing from or affiliation to a manufacturer, bottler, or distributor of beer, wine, or liquor;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his

establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (4)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a) of this section; and

(iii) the corporation is authorized to do business in Montana.

~~(4)~~(5) In the case of a corporate applicant, the requirements of subsections (2)(b), ~~and~~ (3)(b), and (4)(b) apply separately to each class of stock.

~~(5)~~(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302."

-End-

48th LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 11	1-3-83	1-24-83	1-24-83			1-24-83			
SB 53	1-3-83	1-7-83	1-10-83	1-10-83					
SB 54	1-3-83	1-7-83	1-10-83		1-10-83				
Returned SB 54	1-10-83	1-19-83	1-19-83	T A B L E D					
SB 62	1-6-83	1-14-83 1-19-83	1-19-83	1-19-83					
Returned SB 62	1-21-83	1-28-83 1-31-83	1-31-83			1-31-83			
SB 75	1-6-83	1-14-83	1-14-83	1-14-83					
SB 84	1-10-83	1-26-83 2-11-83	2-11-83			2-11-83			
SB 103	1-12-83	1-21-83 1-31-83	1-31-83	1-31-83					
SB 105	1-12-83	1-28-83 1-31-83	1-31-83		1-31-83				
SB 107	1-12-83	1-26-83 2-3-83	2-3-83			2-3-83			
SB 117	1-12-83	1-24-83	1-24-83	1-24-83					
SB 120	1-12-83	2-9-83	2-9-83	2-9-83					
SB 125	1-12-83	1-19-83 1-24-83	1-24-83	1-24-83					
SB 128	1-14-83	1-21-83	1-21-83	1-21-83					
SB 144	1-14-83	2-7-83	2-7-83	2-7-83					

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 14, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on January 14, 1983, at 11:00 a.m., in Room 404, State Capitol.

ROLL CALL: Roll was called with Senators Boylan and Dover being excused.

CONSIDERATION OF SENATE BILL 62: Senator Turnage, sponsor of the bill, stated this bill was recommended by the Revenue Oversight Committee, which was a suggestion from the Department of Revenue, Liquor Division. This bill has to do primarily with corporations and clarifying the licensing section of the liquor code. Senator Turnage wanted to remove the prohibition of immediate family ownerships as he thought it would be unconstitutional.

PROPONENTS OF SENATE BILL 62: Howard Hefflefinger, Liquor Division Administrator, gave the Committee a revised Senate Bill 62, with amendments. He stated that the State of Montana has a liquor license quota system which restricts the number of licenses and distributes them according to population. This seems to raise the market value of these licenses. It has also been State policy that anyone can get one all beverage liquor license per immediate family. At the same time, the law has provided, in regard to retail beer licenses, that anyone who wants to acquire an available license may do so regardless of whether he has another license. These licenses are much less valuable. He pointed out the amendments which had been inserted and Senator Turnage stated he agreed with the amendments 100%.

Chairman Kolstad instructed Staff Attorney Petesch to review the amendments. (This handout is attached to the minutes).

There were no further proponents and no opponents.

There being no further discussion, hearing on Senate Bill 62 was closed.

NO EXECUTIVE ACTION TAKEN ON SENATE BILL 62.

CONSIDERATION OF SENATE BILL 75: Senator Turnage, sponsor of the bill, stated this was another bill that the Liquor Division brought to the attention of the Revenue Oversight Committee. He asked that Mr. Hefflefinger explain the bill.

PROPONENTS OF SENATE BILL 75: Howard Hefflefinger, Liquor Division Administrator, stated in administering the retail beer licenses quota system, it has always been the clear understanding of the Department that they issue one such license per 500 inhabitants to cities of more than 500 inhabitants but not more than 2,000 inhabitants. In cities of over 2,000 inhabitants they would issue

John Cadby, Montana Bankers Association, stated on behalf of the banks in Montana they wanted to support this bill.

There were no further proponents and no opponents.

After questions and discussions from the Committee, hearing on Senate Bill 125 was closed.

NO EXECUTIVE ACTION WAS TAKEN ON SENATE BILL 125.

ACTION ON SENATE BILL 62: The proposed amendments on Senate Bill 62 were distributed to the Committee and explained by Staff Attorney, Greg Petesch. (Exhibit No. 1) He stated these were the amendments that were proposed by the Department of Revenue and would reinsert the restriction on a member of the applicant's immediate family being involved with a license except for applicants for on-premises all beverage licenses. He pointed out to the Committee that immediate family is defined as the applicant, his or her spouse, children and dependent parents, if any. These restrictions would only apply to them.

Senator Regan made a motion that the proposed amendments to Senate Bill 62 Be Adopted. Senator Goodover seconded the motion. The Committee voted unanimously by voice vote, with the exception of Senator Severson who was excused, that the proposed amendments to SENATE BILL 62 BE ADOPTED.

Senator Goodover made a motion that Senate Bill 62 Do Pass As Amended. Senator Fuller seconded the motion. The Committee voted unanimously by voice vote, with the exception of Senator Severson who was excused, that SENATE BILL 62 DO PASS AS AMENDED.

ACTION ON SENATE BILL 54: This bill was sent out of Committee with a DO NOT PASS. However, it has been brought back into Committee for further consideration.

Senator Regan distributed the proposed amendments to the Committee on Senate Bill 54, which were prepared by Staff Attorney, Greg Petesch. (Exhibit No. 2) She also distributed a revised Senate Bill 54. (Exhibit No. 3) She stated this considerably narrows the focus of the bill and allows the liquor stores to be open on Mondays but clearly indicates that they shall be closed on Sundays and legal holidays. She thought it was only reasonable that the liquor stores, in order to show a profit, be allowed to be open six days a week. We are only one of two states that are not open six days a week. Michigan has the power to be open on Monday, but chooses to be open only five days per week. This bill would give the liquor stores the power to either have a five or six day week.

Senator Lee stated he was against the amendments for the same reason they killed the bill in the first go round. He felt to expand their involvement was a bad decision. The package liquor stores

STANDING COMMITTEE REPORT

January 19 19 83

MR. President

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 62

Respectfully report as follows: That SENATE Bill No. 62

introduced bill, be amended as follows:

1. Page 1, line 23.
Following: "has"
Strike: "does"
Insert: "will"

2. Page 1, line 24.
Following: "in"
Strike: "any other"
Insert: "more than one"

3. Page 2, line 2.
Following: "family"
Insert: "or any member of his immediate family"

XXXXXXX

Chairman.

STATE PUB. CO.
Helena, Mont.

4. Page 3, line 8.
Following: "has"
Strike: "does"
Insert: "will"

5. Page 3, line 9.
Following: "in"
Strike: "any other"
Insert: "more than one"

6. Page 3, line 12.
Following: "family"
Insert: "or any member of his immediate family"

7. Page 4, line 14.
Following: "(i)"
Insert: "neither"
Following: "applicant"
Insert: "nor any member of his immediate family"
Following: "has"
Strike: "no"
Insert: "an"

8. Page 4, line 17.
Following: "(ii)"
Insert: "neither"
Following: "applicant"
Insert: "nor any member of his immediate family"
Following: "has"
Strike: "no"

And, as so amended
DO PASS

ALLEN C. KOLSTAD, Chairman.

STATE PUB. CO.
Helena, Mont.

EXHIBIT NO. 1
SUBMITTED BY: Greg Petesch, Staff Attorney
January 19, 1983

Senate Bill No. 62, introduced bill, be amended as follows:

1. Page 1, line 23.
Following: "~~has~~"
Strike: "does"
Insert: "will"

2. Page 1, line 24.
Following: "in"
Strike: "any other"
Insert: "more than one"

3. Page 2, line 2.
Following: "~~family~~"
Insert: "or any member of his immediate family"

4. Page 3, line 8.
Following: "~~has~~"
Strike: "does"
Insert: "will"

5. Page 3, line 9.
Following: "in"
Strike: "any other"
Insert: "more than one"

6. Page 3, line 12.
Following: "~~family~~"
Insert: "or any member of his immediate family"

7. Page 4, line 14.
Following: "(i)"
Insert: "neither"
Following: "applicant"
Insert: "nor any member of his immediate family"
Following: "has"
Strike: "no"
Insert: "an"

8. Page 4, line 17.
Following: "(ii)"
Insert: "neither"
Following: "applicant"
Insert: "nor any member of his immediate family"
Following: "has"
Strike: "no"

GP2/Amend SB 62

STATUS SHEET

BUSINESS & INDUSTRY COMMITTEE

48 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Ou
SB 53	ELIMINATING THE OFFICIAL SEAL ON LIQUOR PACKAGES PROHIBITING ANY OPEN CONTAINERS IN LIQ. STORES	1-17	GALT	2-14	BE CONCURRED	2-14
SB 250	REVISING THE LAWS RELATING TO THE BOARD OF HOUSING	3-7	GOODOVER	3-22	BE CONCURRED	3-22
SB 249	REVISING USURY LIMITS; ALLOWING DEPT. OF COMM. TO ADJUST RATES TO PREVAILING INTEREST RATES.	2-9	TOWE	3-3	BE CONCURRED RECONSIDERED 3-11 BE CONCURRED (A)	3-4 3-16
SB 133	TO ELIMINATE SPECIAL PENALTY FOR VIOLATIONS OF PLUMBING LAWS BY A FINE NOT TO EXCEED $500	2-5	LYNCH	3-4	BE CONCURRED	3-4
SB 62	LICENSING CRITERIA LIMITING OWNERSHIP OF MONTANA RETAIL ALCOHOLIC BEV. LICENSES	2-5	TURNAGE	3-2	BE CONCURRED (A)	3-2
SB 103	TO CLARIFY THAT A MUTUAL INSURER OF ASSOCIATIONS MAY REFUSE TO RENEW IF THE INSURED WITHDRAWS	2-6	OCHSNER	3-1	BE NOT CONCURRED	3-1

Form CS-32
1-79

HOUSE BUSINESS & INDUSTRY COMMITTEE

Rep. Jerry Metcalf, Chairman, called the Business & Industry Committee to order on March 2, 1983, in Room 420 of the Capitol Building, Helena, Montana at 9:00 a.m. All members were present except Rep. Fagg & Rep. Wallin who were excused.

SENATE BILL 144

SEN. TURNAGE, District 13, sponsor, opened by saying this bill revises the liquor license quota law to allow a floater license, after its transfer to a new location, to be owned by other than natural persons.

PROPONENTS:

HOWARD HEFFELFINGER, Dept. of Revenue: In 1975 a bill was enacted to free up the quota liquor license system, particularly areas that were significantly over quota at that time. A number of commissions were placed on the floater at that time, one of them being only "natural persons" could hold such licenses. It appears that language was adopted because legislators were concerned that if it was loosened up they should require only Montana persons to hold such licenses. In 1982 the court said the department could not prohibit corporations from acquiring such quota licenses. We brought this to the attention of the oversight committee and they preferred we submit this legislation rather than appealing the case.

OPPONENTS: none

QUESTIONS: none

SENATE BILL 62

SEN. TURNAGE, District 13, sponsor, opened by saying this bill is at the request of the revenue oversight committee. The present law prevents a person from obtaining a license if any member of his immediate family has an interest in another establishment. The fear was that one family might gather up all the licenses in town and monopolize them. With the quota restrictions, this is not going to happen. There is an amendment being offered concerning brewers.

PROPONENTS:

REP. MENAHAN: I would like to support SB 62. In our area there is a man and wife who own separate establishments and she cannot put her name on her liquor license because he owns one. This is denying her the opportunity to be a independent businesswoman.

HOWARD HEFFELFINGER, Dept. of Revenue: Because of the high market value and competitiveness of liquor licenses upheld

by state policy, we try to make licensing as fair as possible. One owner per all-beverage license is the rule. Anyone can own as many beer licenses as they want. The sponsor of this bill has sought to remove the prohibition on the family ownership of licenses. It is felt these prohibitions are unfair and possibly unconstitutional.

ROGER TIPPY, Montana Beer and Wine Wholesalers Association: I appear in support of an amended SB 62. The wholesalers' objectives were to accept the Department's position that breweries and wineries should not be licensed as wholesalers in Montana while seeking an appropriate license category for a zone warehouse or storage facility such as the one in Billings several years ago. Our proposed amendment would accomplish this purpose by allowing an out-of-state brewery to have an in-state storage depot. Changes in MCA sections 16-3-230 and 16-4-102 are proposed to do this. While the amendments are fairly lengthy, they are germane to the original purposes of the bill. These amendments have been reviewed with department officials; I understand that they are acceptable with the addition of a severability clause and an accelerated effective date to July 1, 1983. (Exhibit #1)

MIKE GARRITY, Attorney, Dept. of Revenue: If we adopt the amendments, the department would recommend that the title be amended and an effective date and severability clause be included.

OPPONENTS: none

QUESTIONS:

REP. PAVLOVICH: Mr. Garrity, on page 5, line 3 it says the applicant must be 19 years of age. When you are 18 you can own a tavern and serve liquor, why the restriction on a license? Mr. Garrity: The legal drinking age is 19. The license criteria statute applies to all-beverage licenses. I am not aware of any 18 year olds owning a license. Rep. Pavlovich: I am aware of people 18 who do own licenses.
REP. SCHULTZ: On line 23, page 4, who makes the decision?
Mr. Heffelfinger: It's usually the hearings officer from the Attorney General's office.
REP. KADAS: Why do you need an effective date of July 1?
Mr. Garrity: A certain Billings wholesaler's license expires on June 30 and this will allow that they not renew that license. They will secure this storage depot license.
REP. METCALF: We have had some problems in the House with amending outside the scope of the title. Do you see a problem with these amendments?
Mr. Tippy: I don't think it's outside the scope of the title, it's not that much of a departure.
REP. HARPER: Why are you restricting breweries to maintain a depot only in a city or town?

Mr. Tippy: The facilities would most likely be near railroad sidings or industrial park areas. If we want to help the counties, we can.

EXECUTIVE SESSION:

SENATE BILL 144

Rep. Bachini: I move Senate Bill 144 BE CONCURRED IN.
QUESTION: Motion carried unanimously.

SENATE BILL 62

Rep. Kitselman: I move DO PASS the amendments presented by the Department of Revenue.
QUESTION: Motion carried unanimously.
Rep. Fabrega: I move DO PASS the amendments presented by the wholesalers.
QUESTION: Motion carried unanimously.
Rep. Fabrega: I move Senate Bill 62 BE CONCURRED IN AS AMENDED.
QUESTION: The motion carried unanimously.

The hearing adjourned at 10:00 a.m.

J. Metcalf

REP. JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

STANDING COMMITTEE REPORT

MARCH 2 19 83

MR. SPEAKER:

We, your committee on BUSINESS & INDUSTRY

having had under consideration SENATE Bill No. 62

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE LICENSING CRITERIA LIMITING OWNERSHIP OF MONTANA RETAIL ALCOHOLIC BEVERAGES LICENSES; AMENDING SECTION 16-4-401, MCA."

Respectfully report as follows: That SENATE Bill No. 62

BE AMENDED AS FOLLOWS:

1. Title, line 6
Following: "MONTANA"
Strike: "RETAIL"

2. Title, line 7
Following: "LICENSES"
Insert: "AND STORAGE DEPOTS, PERMITTING SHIPMENTS TO STORAGE DEPOTS"
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 16-3-230, 16-4-102, AND"

3. Title, line 8
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 5, line 2
Following: ";"
Strike: "and"

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

MARCH 2 19 83

5. Page 5, line 4
Following: "years;"
Insert: "and (v) an applicant for a wholesale licenseis neither a manufacturer of an alcoholic beverage nor isowned or controlled by a manufacturer of an alcoholic beverage;"

Page 5, line 10
Following: "this section;"
Insert: "(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage;"
Renumber: subsequentssubsection

7. Page 5, following line 18
Insert: "Section 2. Section 16-3-230, MCA, is amended to read:
"16-3-230. Out-of-state beer required to be shipped to wholesaler. All beer manufactured outside of the state of Montana and shipped into Montana shall be consigned to and shipped, either directly or via a licensed storage depot, to a licensed wholesaler and by him unloaded into his warehouse in Montana or subwarehouse in Montana. A brewer may sell only to wholesalers from a storage depot in Montana and shall maintain records of all beer, including the name or kind received, on hand, and sold, which records may at alltimes be inspected by any representative of the department. Said wholesaler shall distribute said beer from such warehouse or subwarehouse and shall keep records at his principal place of business of all beer, including the name or kind received, on hand, sold, and distributed. Said records may at all times be inspected by any member or representative of the department."

Section 3. Section 16-4-102, MCA, is amended to read:
"16-4-102. Right of brewers to maintain and operate storage depots -- annual licenses. It shall be lawful for any brewer duly licensed to manufacture beer in-the-state-of-Montana, upon the payment to the department of an annual license fee in addition to all other fees and taxes required to be paid by such brewer for each storage depot, to own, lease, maintain, and operate, in any city or town in the state of Montana, a building for use as a storage depot, equipped with refrigeration and cooling apparatus, for receiving, handling, and storing beer therein and distributing and selling beer therefrom as brewers are permitted to sell and distribute beer under the provisionsof this code."

Section 4. Severability. If a part of this act is invalid, all parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. This act is effective July 1, 1983."

AND AS AMENDED
BE CONCURRED IN

JERRY NEIGER
Chairman.

STATE PUB. CO.
Helena, Mont.

Exhibit #1

BEFORE THE COMMITTEE ON BUSINESS AND INDUSTRY
MONTANA HOUSE OF REPRESENTATIVES

Senate Bill 62) Montana Beer & Wine Wholesalers
March 2, 1983) In Support of Bill With Amendments

Mr. Chairman and committee members, I am Roger Tippy of Helena, lobbyist for the Montana Beer & Wine Wholesalers Association. I appear in support of an amended Senate Bill 62.

This bill began its passage through the Senate with some language that was rather detrimental to the structure of the beer and wine industries. The bill actually compounded some problems created in the 1981 session, when MCA section 16-4-401 was extensively revised.

The problems result from extending language made for tavern licenses to the wholesale and manufacturer licenses, where these terms don't fit. To require, for instance, an applicant for a wine distributor's license to be "without affiliation" to any winery is palpably unrealistic. Suffice it to say that the Senate committee voted to delete the problem language on page 4, lines 17-19 while the wholesalers and the Department of Revenue sought to negotiate satisfactory wording.

The wholesalers' objectives in these negotiations were to accept the Department's position that breweries and wineries should not be licensed as wholesalers in Montana while seeking an appropriate license category for a zone warehouse or storage facility such as the one a Missouri-based brewery placed in Billings several years ago. Our proposed amendment would accomplish this purpose by allowing an out-of-state brewery to have an in-state storage depot. Changes in MCA sections 16-3-230 and 16-4-102 are proposed to do this.

While the amendments are fairly lengthy, they are germane to the original purposes of the bill. They deal with an effect the introduced bill would have had, i.e., possibly curtailing the continued operation of a zone warehouse by an out-of-state brewery, by permitting that continued operation under a different license category. These amendments have been reviewed with Department officials; I understand that they are acceptable with the addition of a severability clause and an accelerated effective date, to July 1, 1983.